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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/019,353	04/25/2002	John Alfred Wilkinson	B0192/7033	1376
23628	7590	02/28/2006	EXAMINER	
WOLF GREENFIELD & SACKS, PC FEDERAL RESERVE PLAZA 600 ATLANTIC AVENUE BOSTON, MA 02210-2211			LEVY, NEIL S	
			ART UNIT	PAPER NUMBER
			1615	

DATE MAILED: 02/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/019,353	WILKINSON, JOHN ALFRED	
	Examiner	Art Unit	
	NEIL LEVY	1615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4,8,9,11-17,19,33 and 73-93 is/are pending in the application.
- 4a) Of the above claim(s) 86 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4,8,9,11-17,19,33 and 73-85,87--93 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-4,8,9,11-17,19,33 and 73-93 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 86 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim.

Election was made **without** traverse in the reply filed on paper # 8.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4,8,9,11,12,14-17,19,33,73-85,87-93 stand rejected under 35 U.S.C. 103(a) as obvious over Eini et al EP 0495 684 in view of Sine et al 6183766, Rosenberg WO 96/14046, Coats 4178372 & Precopio 5858383.

The rejection of record is maintained, in essence, as modified by rejection of 2/25/04.

All of these references are of record. Note that Eini at top of page 13 reports no irritation. Although not stated, it is obvious that either the compositions constitute, besides ectoparasite controlling efficacy, an antipruritic agent or effect. The instant claim 1 does not specify the agent, either.

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Sine also provides topical compositions, gels, inclusive of the instant LUBRAGEL diluted (col. 1, bottom). Carbomers are also used. (col. 11, top). Sine shows Lubragel to provide superior topical effects, as humectant, at >1-15% (col 11, lines 35- col 12, line 4). Skin care actives include irritation reducers (col. 14 b.).

Rosenberg shows one in the art knows cleansing of skin & hygienic and lice control is obtainable in single formulations (p1), and also utilizes essential oils, sage oil.

C oats is cited to show well known use of aloe vera, as a hypoallergenic component of topical gels, while Precopoio shows incorporation of aloe gel (col. 5, top, example 1) with lice control compositions.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made, desiring to utilize lice control compositions, to use one of those well known in the art, as exemplified by the primary references, with selection of the equivalent gel, essential oil, antipruritic & other adjuvants as are common in the topical arts, in order to provide safe, comfortable, non-irritating, combination cleansing/lice control/antimicrobial compositions.

All the critical elements of the instant invention are disclosed. The amounts and proportions of each ingredient are result effective parameters chosen to obtain the desired effects. It would be obvious to vary the form of each ingredient to optimize the effect desired, depending upon the particular pest species and crop interest, reduction of toxicity, cost minimization, enhanced, and prolonged, or synergistic effects.

Applicant has not provided any objective evidence of criticality, non-obvious or unexpected results that the administration of the particular ingredients' or concentrations provides any greater or different level of prior art expectation as claimed, and the use of ingredient for the functionality for which they are known to be used is not a basis for patentability.

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The instant invention provides well known old art recognized compounds, with well known art recognized effects, applied by well known methods to achieve control over lice, bacteria, & dirt as is well known in the art.

The specific ratios, weights, and additives are result effective parameters subject to control by one with skill in the art, in order to optimize the desired effect, such as enhanced foam, gel stability, thickening, lubricity, moisturizing, pH control, fragrance, and freeze protection.

The instant claims are inclusive of the prior art.

Applicant's arguments filed 1/10/06 have been fully considered but they are not persuasive..Applicant argues there is no motivation shown in the cited art to arrive at the instant invention. However, none of the ingredients are critical, unobvious or unexpected in control of ectoparasites. The cited art shows combinations of these functions in single formulations to be advantageous & attainable. Some of the components used provide potential irritation, thus the artisan would find it within one's purview to utilize the teaching of the prior art in preparation of human topical ectoparasite control formulations.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to NEIL LEVY whose telephone number is 571-272-0619. The examiner can normally be reached on Tuesday-Friday, 7 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, THURMAN PAGE can be reached on 571-272-0602. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



NEIL LEVY
Primary Examiner
Art Unit 1615
